

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, December 9, 2014
7:00 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 7:16 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Assistant to the Town Manager Pat Himmelberger, Town Attorney Susan L. Trevarthen, Assistant Development Services Director/Town Planner Linda Connors, Municipal Services Director Don Prince, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pastor James Corgue gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

Bill Ciani, property owner, addressed the issue of parking, stating that businesses in Town, particularly restaurants, need more parking at different times of the year than others. He asked that the Commission keep an open mind with regard to the Town's parking situation.

Kai Stadler, developer of the Sky 230 Townhouse Project, described the existing 35% rooftop limitation as a handicap, as he cannot make full use of rooftop terraces with this restriction. He requested that this limitation be amended to allow full use of the available rooftop square footage as well as permanent rooftop structures.

7. PUBLIC SAFETY DISCUSSION

a. BSO November 2014 Report (Captain Fred Wood)

Commissioner Brown requested an update on enforcement operations in the Downtown area. Captain Fred Wood of the Broward Sheriff's Office (BSO) replied that in November 2014, the Florida Sheriff's Association began a statewide operation designed as an educational and enforcement effort to target pedestrians, cyclists, and drivers with regard to pedestrian safety. During the month, Lauderdale-By-The-Sea's Deputies wrote 239 warning citations and 47 actual traffic citations. Copies of pedestrian and bicycle statutes are provided to each offender.

Captain Wood continued that the Town has secured more than \$19,000 in Florida Department of Transportation (FDOT) grant funds for pedestrian and bicycle safety efforts. These funds will be used to continue the enforcement effort for the next 60 to 90 days.

Captain Wood advised that BSO will also hold Shred-A-Thon and Operation Medicine Cabinet events on January 10, 2015. They will be held at Assumption Church from 10 a.m. to 1 p.m.

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

b. AMR November 2014 Report (Chief Brooke Liddle)

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

c. VFD November 2014 Report (Chief Judson Hopping)

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

8. TOWN MANAGER REPORT

a. Town Manager Report (Connie Hoffmann, Town Manager)

Town Manager Connie Hoffmann advised that Commissioner Brown would speak on the extension of the Sun Trolley route into LBTS. She indicated the Downtown Fort Lauderdale Transportation Management Association (TMA) will likely approach the Town for some financial support if the Sun Trolley does expand its service into Lauderdale-By-The-Sea. Town Staff is also working with TMA Staff to add the Pelican Hopper to the Sun Trolley route tracking app at a nominal cost so that prospective riders will be able to pinpoint where the Hopper is and how long a wait they have at their stop.

Commissioner Brown explained that he and Assistant to the Town Manager Pat Himelberger recently addressed the TMA's Executive Board to request that the Sun Trolley's route be extended into Lauderdale-By-The-Sea. The Executive Board was receptive to the proposal, although they have not yet voted on the issue. Mayor Sasser suggested that the Town find a way to track how many riders would come to Lauderdale-By-The-Sea via the Sun Trolley.

Town Manager Hoffmann advised that Town Staff has met with Florida Power and Light (FPL) to look into the possibility of replacing an unsightly concrete pole in front of the Oriana. FPL provided a rough estimate of \$35,000 plus a 10% contingency for the replacement and relocation of the pole. That does not include the costs that would be assessed by Comcast and AT&T to move their equipment. Town Manager Hoffmann suggested following up with a suggestion made by Commissioner Dodd that the Oriana Homeowners' Association be approached to contribute 50% of the replacement costs. The Commissioners approved this outreach by unanimous consensus.

b. October 2014 Finance Report (Tony Bryan, Finance Director)

The Commissioners accepted the report without comment.

9. TOWN ATTORNEY REPORT

Town Attorney Susan Trevarthen requested an Executive Session on County litigation for January 6, 2015 at 5 p.m. The Commissioners confirmed this date by consensus.

10. APPROVAL OF MINUTES

a. November 6, 2014 El Mar Greenway Workshop Minutes (Tedra Smith, Town Clerk)

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

11. CONSENT AGENDA

- a. Buoy Maintenance Services Award (Don Prince, Municipal Services Director)**
- b. Approval of Half Day Holiday on Christmas Eve (Connie Hoffmann, Town Manager)**
- c. Scrivener's Error Correction for Ordinance 2014-10 (Linda Connors, Assistant Development Services Director / Town Planner)**

- d. Adding one Parking Meter Technician to the Fiscal Year 2014-2015 Budget and Authorizing a Corresponding Budgetary Transfer of Funds (Bud Bentley, Assistant Town Manager)**

Commissioner Sokolow made a motion, seconded by Commissioner Dodd, to approve the above items on the consent agenda. Motion carried 5-0.

12. OLD BUSINESS

- a. Indemnification and Insurance Requirements – Window Awnings and Sidewalk Cafés (Susan Trevarthen, Town Attorney)**

Town Attorney Trevarthen recalled that Town Staff was asked to bring this Item back for further discussion. The backup materials provided an outline of the issue, including distinctions for the required amount of insurance coverage. The sidewalk café Ordinance, which will be presented for second reading, raises the proposed requirement to \$1 million coverage per occurrence and \$2 million in aggregate.

Another dimension of the issue is the quality of insurance, as Code requires a B+ rating for insurers of sidewalk cafés and an A- rating for awning insurance. Town Attorney Trevarthen concluded that indemnification language is provided in attached exhibits, although she noted that the language allowing the Town to be in control of defense and to select an attorney is not required by Code. There is also variation within the Code regarding time of notice.

It was clarified that Code requires indemnification from the property owner as well as the owner of a given business. Town Attorney Trevarthen advised that the owner's requirement to indemnify will be addressed as part of a later Agenda Item concerning sidewalk cafés. Town Manager Hoffmann added that Staff strongly favors retaining the requirement for \$2 million in aggregate coverage.

The Commissioners discussed the Item, with Commissioner Sokolow suggesting that an umbrella policy of \$1 million would be sufficient to address aggregate coverage. Town Attorney Trevarthen clarified that if the Town wished to be uniform in the aggregate or umbrella amount, Code changes would be required.

Bill Ciani, property owner, stated that he did not feel an awning encroachment should require \$2 million in liability insurance if the Town would only be required to pay up to \$200,000 in damages under State law. He added that the State's hold-harmless language does not establish a specific monetary amount for defense or counsel. Town Attorney Trevarthen observed that Staff's recommendation would be to continue to specify limits of sovereign immunity, as these are commonly used by local governments.

It was decided by consensus that Staff would look into this issue further and bring appropriate Code changes back before the Commission.

13. NEW BUSINESS

a. Selection of Chairperson for Easter and 4th of July Events (Connie Hoffmann, Town Manager)

Commissioner Dodd volunteered to chair the Easter event, while Commissioner Sokolow stated he would chair for the 4th of July event.

Commissioner Brown suggested discontinuing the Town's Halloween event, which is very labor-intensive, and instead holding an event in recognition of Veterans' Day, which he offered to chair if the Commission wished to make this change. Mayor Sasser asked that this item be placed on the next Agenda for additional discussion.

b. Policy Discussion on Late Payment of BTRs (Vice Mayor Chris Vincent)

Vice Mayor Vincent explained that Code fines for an individual who failed to pay the business tax receipt (BTR) fee of \$6 for a single-family rental home had mounted to a lien of \$52,000, although Staff had contacted the individual multiple times to address the issue before fines started to accrue. The only remaining option for the individual is to request that his lien be mitigated by the Town. Vice Mayor Vincent recommended that the BTR fee be eliminated for non-vacation single-family rental properties, as they are not otherwise regulated by the Town.

The Commissioners discussed the Item, noting that the Town does not enforce the requirement of annual inspections for single-family rentals. Commissioner Dodd pointed out that a distinction must be made between single-family homes and vacation rental properties, and suggested that instead of abandoning the BTR fee, it should be raised to a more realistic rate.

Town Manager Hoffmann observed that State law limits the Town's ability to raise the BTR fees. Town Attorney Trevarthen advised that the Town could establish a limitation on the amount of penalties for this violation before a lien takes effect.

Assistant Development Services Director/Town Planner Linda Connors noted that by the time this issue reaches the Special Magistrate, the individual has already been contacted multiple times seeking payment, which represents a significant amount of Staff time spent addressing the issue. She proposed establishing a lower fine than what is generally levied for Code violations.

Commissioner Brown observed that the BTR provides the Town with a record of which property owners are renting their houses as a business and are required to have the

properties inspected each year. Town Manager Hoffmann added that these properties are also checked to ensure the owners are not claiming homestead exemptions.

Mayor Sasser asserted that it is important to keep BTR fees in place, and to raise this fees when necessary in order to cover expenses; however, he agreed that in the case cited by Vice Mayor Vincent, the fee has grown to an unreasonable amount. He recommended further discussion of the policy in order to make it more reasonable. It was noted that the individual case would come before the Commission for lien mitigation at a later date.

c. Discussion of Section 30-241 (c) (2) Rooftop uses in the RM-25 Zoning District (Commissioner Elliot Sokolow)

Commissioner Sokolow advised that this Item was added to the Agenda at the request of a property owner. The original plan for the property was for a Mediterranean-style structure with a pitched roof including a small flat area. The project has since been converted to the Mid-Century Modern style, and the building does not meet Code requirements for rooftop uses, as it exceeds the allowable area based on air conditioning square footage below. He suggested that the Commission refer this Item to the Planning and Zoning Board to consider modifying the Code for this type of structure.

Asst. Development Services Director Connors explained that Code states there may be no permanent structures on the roof, as well as only 35% of the use of the interior square footage of the floor below. The subject property includes built-in summer kitchens, which are considered a permanent structure. In addition, due to the architectural style, a large percentage of the rooftop may be used as a deck. She pointed out that the Town will need to consider what should be allowed for hotels as well as multi-family residences.

The Commissioners agreed by consensus that the Item would be sent before the Planning and Zoning Board for further review and recommendation.

d. Parking Reduction Application for 106 and 108 Commercial Boulevard (Linda Connors, Assistant Development Services Director / Town Planner)

Asst. Development Services Director Connors reviewed the Application, explaining that the subject property includes 4300 sq. ft. of retail. The Applicant hopes to add a restaurant with roughly 2000 sq. ft. of customer service area. This addition triggers a change of use on the property. The Applicant would need approximately 21 parking spaces to meet Code requirements for a restaurant; however, only eight spaces are available, including one on-site space, which means the Applicant would require a reduction of 13 spaces.

Asst. Development Services Director Connors advised that the Town's recent parking study evaluated this reduction request and found there is not sufficient available parking to justify approval. She described a past agreement that allowed an applicant to lease 10 spaces from the Town's parking lot at a rate of \$975/year per space. Staff recommends denial of the parking reduction request; however, if the Commission is supportive of the Application, Staff recommends authorizing the Town Manager to negotiate with the property owner a payment in lieu of parking fee.

Mayor Sasser spoke in favor of allowing Town Manager Hoffmann to negotiate an agreement, while Commissioner Brown, Commissioner Sokolow, and Vice Mayor Vincent felt the Town should allot the 13 spaces from its western parking allocation. Commissioner Dodd, however, felt this would set an unwanted precedent, and also supported negotiation for payment in lieu.

Town Attorney Trevarthen clarified that while the Town has not made a similar administrative adjustment for parking in the past, the Commission has the authority to do so. She confirmed that future applicants may request similar consideration.

Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, to grant the parking exemption. Motion carried 4-1 (Commissioner Dodd dissenting).

It was confirmed that any changes or expansions to the existing parking exemption program would need to be addressed at a future meeting.

14. ORDINANCES

Ordinances 1st Reading

- i. **Ordinance 2014-20 – An Ordinance of the Town Commission of Lauderdale-By-The-Sea, Florida, approving the first amendment to the restated Solid Waste and Recycling Collection Franchise Agreement with WastePro USA, Inc.; authorizing a six-month extension of the first renewal term; authorizing execution of the first amendment to the restated Franchise Agreement; providing for conflicts, severability, and for an effective date (Bud Bentley, Assistant Town Manager)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Assistant Town Manager Bud Bentley explained that the Commission is asked whether or not they wish to renew this contract or go out for bid. Extending the contract for an additional six months will allow Staff and WastePro USA, Inc. to meet and confer before a full recommendation is made to the Commission.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

Ordinances 2nd Reading

- i. **Ordinance 2014-18 – An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 17, “Streets, Sidewalks and other Public Places,” Article VI, “Sidewalk Cafés,” of the Code of Ordinances, to update requirements for Sidewalk Cafés; and providing for codification, severability, conflicts, and an effective date (Linda Connors, Assistant Development Services Director / Town Planner)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

The Commissioners discussed the proposed Ordinance, with Commissioner Brown asserting that the Town had spent a significant amount of money to improve the Downtown area and benefit the businesses there; however, he felt the proposal by one business to install sidewalk café tables with advertising would violate the standard set by the Town. Commissioner Dodd concurred, noting that sign Code has already been modified to allow the names of businesses on this furniture. Commissioner Sokolow stated that his primary concern was related to the insurance requirement, allowing a \$2 million umbrella policy to meet the \$2 million aggregate.

Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, that the Commission adopt [the Ordinance] on second reading, with the change adding the words “or equivalent” to the insurance requirement at line 220.

Commissioner Dodd offered the following amendment to the motion, seconded by Commissioner Brown: to delete the advertising from the tables. Amendment failed 2-3 (Mayor Sasser, Vice Mayor Vincent, and Commissioner Sokolow dissenting).

Motion carried 3-2 (Commissioners Brown and Dodd dissenting).

15. RESOLUTIONS – PUBLIC COMMENTS

- a. **Resolution 2014-46 – A Resolution of the Town of Lauderdale-By-The-Sea, Florida, authorizing a 5% increase in Town Commissioner salaries, effective December 20, 2014; directing the appropriate Town Officials to effectuate the 5% Salary Increase for the Town Commission; providing for conflict, severability, and for an effective date (Tony Bryan, Finance Director)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Commissioner Brown made a motion, seconded by Commissioner Dodd, to approve. Motion carried 4-1 (Mayor Sasser dissenting).

- b. Resolution 2014-47 – A Resolution of the Town Commissioner of the Town of Lauderdale-By-The-Sea, Florida, amending the 2014-2015 Fiscal Year Budget in accordance with the attached Exhibit “A”; authorizing appropriate expenditures in accordance with the 2014-2015 Fiscal Year Budget as amended; providing for conflicts, providing for severability, and an effective date (Tony Bryan, Finance Director)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Commissioner Brown made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

16. QUASI JUDICIAL PUBLIC HEARINGS

- a. Conditional Use to Operate Watercraft Sales and Rentals in the B-1-A Zoning Districts (218 Commercial Boulevard) (Linda Connors, Assistant Development Services Director / Town Planner)**

Asst. Development Services Director Connors explained that the Application would allow Paddleboard of Florida to rent or sell non-motorized watercraft at the subject location. This is allowable only as a conditional use. The following criteria were met by the Applicant:

- Land use compatibility;
- Compatibility with adjacent commercial uses;
- Sufficient site size, specifications, and infrastructure to support the use;
- Compliance with the Town’s Comprehensive Plan and Code of Ordinances;
- Proper use of mitigation techniques;
- No adverse impacts to adjacent land uses.

The Application was reviewed by the Planning and Zoning Board in November 2014, and recommended for approval with conditions by a 4-1 vote. The conditions recommended are:

1. Sales and rental must be limited to non-motorized products;
2. Outdoor repair, service, display, or storage is prohibited;
3. Applicant shall provide notice of the restrictions requiring 25 ft. from bathers or fishermen inside the watercraft-prohibited zone on every rental and/or sale agreement;

4. No transaction, solicitation, or off-premise vending on or upon any sandy beaches within the Town;
5. Applicant shall park only in designated parking spaces while delivering products to the beach;
6. Advertising on each piece of rental equipment shall be limited to factory-installed product manufacture or brand identification, and to the business name. The business name shall be limited to once per piece of equipment or watercraft, in a letter size not to exceed 4 in. in height.

Staff recommends approval of the Application with the above recommendations.

The Commissioners discussed the Application, clarifying that no sales or rental agreements may be made on the beach. Commissioner Dodd expressed concern with the lack of safety equipment or oversight on the beach. Town Attorney Trevarthen confirmed that the Town is protected from liability.

Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 4-1 (Commissioner Dodd dissenting).

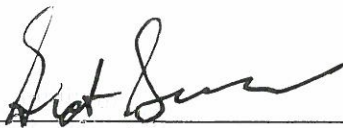
17.COMMISSIONER COMMENTS

Vice Mayor Vincent and Mayor Sasser praised Town Staff's work on the recent Christmas By The Sea event. Town Manager Hoffmann recognized resident Marie Chiarello for her work on the event as well.

Commissioners Sokolow, Brown, and Dodd wished all in attendance happy holidays.

18.ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 9:21 p.m.



Mayor Scot Sasser

ATTEST:



Town Clerk Tedra Smith

1/13/15

Date